

SUBSTITUTE NO. 1 TO ORDINANCE NO. 13-015

**AN ORDINANCE TO AUTHORIZE THE EXTENSION OF CITY
CONTRACT 13036PW – SEWER CONSTRUCTION – WITH
BRANDYWINE CONSTRUCTION CO., INC.**

**Rev.#1
#3818**

Sponsor:

**Council
Member
Shabazz**

WHEREAS, pursuant to Section 2-308 and Section 8-200 of the City Charter, the City of Wilmington is authorized to enter into contracts for the supply of property or the rendering of services for more than a period of one year if approved by City Council by Ordinance; and

WHEREAS, the City desires to obtain construction and repair services for the City's sewer system; and

WHEREAS, the City publicly bid Contract 13036PW - Sewer Construction ("the Contract") - in accordance with Section 8-200 of the City Charter, and subsequently awarded the Contract to Brandywine Construction Co., Inc. ("the Contractor"), the lowest responsible bidder; and

WHEREAS, the initial term of the Contract was for a period of one (1) year beginning on or about July 1, 2012, at a total cost of Nine Hundred Eighty Eight Thousand Six Hundred Dollars (\$988,600.00), with the possibility of two (2) one-year extensions at the option of the City, subject to a price escalation not to exceed two percent of the original contract amount at the sole discretion of the City; and

WHEREAS, the possible extension periods were included in the Contract in order to provide for continuity of services, to take advantage of the Contractor's experience with the requirements of the Contract, and to obtain more favorable pricing; and

WHEREAS, it is the recommendation of the Department of Public Works that the Contract, a copy of which, in substantial form, is attached hereto and incorporated by

reference as Exhibit "A," be extended for a period of one (1) year beginning July 1, 2013, at a total cost of Nine Hundred Eighty Eight Thousand Six Hundred Dollars (\$988,600.00) (no price escalation), with the possibility of one additional extension of one year at the option of the City.

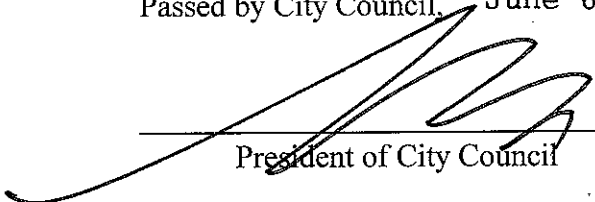
THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Contract 13036PW - Sewer Construction - between the City and Brandywine Construction Co., Inc., a copy of which, in substantial form, is attached hereto as Exhibit "A," for an extended period of one (1) year beginning on July 1, 2013, at a total cost of Nine Hundred Eighty Eight Thousand Six Hundred Dollars (\$988,600.00) (no price escalation), with the possibility of one additional extension of one year at the option of the City, is hereby approved, and the Mayor and the City Clerk are hereby authorized and directed to execute as many copies of said Agreement, as well as all additional undertakings related thereto, as may be necessary.

SECTION 2. This Ordinance shall be effective upon its passage by City Council and approval of the Mayor.

First Reading May 9, 2013
Second Reading..... May 9, 2013
Third Reading June 6, 2013

Passed by City Council, June 6, 2013



President of City Council

Attest: 

City Clerk

Approved as to form this
31st day of May, 2013

Mark J. Pilnick
First Assistant City Solicitor

Approved this 17 day of June, 2013.

Dem P. Wain
Mayor

Synopsis: This Ordinance authorizes the extension of Contract 13036PW - Sewer Construction - with Brandywine Construction Co., Inc., for a period of one (1) year beginning on July 1, 2013, at a total cost of Nine Hundred Eighty Eight Thousand Six Hundred Dollars (\$988,600.00) (no price escalation), with the possibility of one additional extension of one year at the option of the City.

Rev.#1
Agenda #3818

Impact Statement

This Ordinance authorizes the extension of Contract 13036PW - Sewer Construction - with Brandywine Construction Co., Inc., for a period of one (1) year beginning on July 1, 2013, at a total cost of Nine Hundred Eighty Eight Thousand Six Hundred Dollars (\$988,600.00) (no price escalation), with the possibility of one additional extension of one year at the option of the City.

**CITY CONTRACT 13036PW
SEWER CONSTRUCTION
BETWEEN
CITY OF WILMINGTON
AND
BRANDYWINE CONSTRUCTION CO., INC.**

EXHIBIT "A"

ADDENDUM #1 – 5/10/12

CITY CONTRACT 13036PW – SEWER CONSTRUCTION

Please see attached 2012 Prevailing Wage Rates for Highway Construction.

These rates are to be used for the work performed on this contract.

END OF ADDENDUM

INSTRUCTIONS TO BIDDERS

1. Bids on **City Contract 13036PW – SEWER CONSTRUCTION** will be publicly opened and read aloud in the Council Workshop, First Floor, Louis L. Redding City/County Building, 800 French Street, Wilmington, Delaware, on **THURSDAY, MAY 24, 2012, AT 3:00 p.m.**
2. Proposals must be in triplicate, sealed in an envelope, and the envelope endorsed "**Bid for City Contract 13036PW – SEWER CONSTRUCTION**" and addressed to the Department of Finance, Division of Procurement and Records, 8th Floor, Louis L. Redding City/County Building, 800 French Street, Wilmington, Delaware.
3. Any bid may be withdrawn prior to the schedule time for opening of bids or authorized postponement thereof. No bid may be withdrawn within thirty (30) calendar days after the actual opening thereof.
4. The successful bidder will be required to have or obtain an appropriate business license from the Department of Finance, Revenue Division, City of Wilmington, in order to be awarded the contract. Before obtaining a City of Wilmington Business License, all applicants must show proof of a current State of Delaware Business License.
5. The corporation, the successful bidder shall furnish a certificate from the State where it is incorporated, stating that it is a subsisting corporation. The corporation shall also furnish one (1) original and two (2) copies of the excerpts of the corporate minutes, which grant authority to those who sign and attest the contract. The Corporate Seal shall be affixed where signatures are attested.
6. The successful bidder will be required to withhold City of Wilmington Wage Tax from their employees and withheld taxes paid to the City of Wilmington pursuant to the provisions of the Wilmington Wage Tax Law. This law applies to people living and/or working in the City of Wilmington.
7. The U.S. Department of Commerce monitors Procurement transaction made to minority business enterprises by the City of Wilmington. The Minority Business Developments Agency's District Office reserves the right to contact the successful minority bidder and/or subcontractor to confirm any participation in the Procurement process.
8. Any person doing business or seeking to do business with the City shall abide by the following Global Sullivan Principles:
 - A. Support universal human rights and particularly, those of employees, the communities within which you operate, and parties with whom you do business.
 - B. Promote equal opportunity for employees at all levels of the company with respect to issues such as color, race, gender, age, ethnicity, or religious beliefs, and operate without unacceptable worker treatment such as the exploitation of children, physical punishment, female abuse, involuntary servitude, or other forms of abuse.
 - C. Respect employee's voluntary freedom of association.
 - D. Compensate employees to enable them to meet at least their basic needs and provide the opportunity to improve their skill and capability in order to raise their social and economic opportunities.

13036PW SEWER CONSTRUCTION

Prepared by:



**City of Wilmington, DE
Department of Public Works
Water Division
Louis L. Redding City/County Building
800 North French Street – 6th Floor
Wilmington, DE 19801**

April 30, 2012

work for the City. This general superintendent may not be replaced without prior permission from the City.

- E. Per City Code, the Contractor and/or Subcontractor must have a trade license for plumbing and business license with the City of Wilmington.
- F. Bidder shall insure that a crew shall have appropriate equipment and personnel available for work, twenty-four (24) hours per day, seven (7) days a week. The Contractor shall start emergency repair projects within two (2) hours verbal notice by an authorized representative of the Department of Public Works, City of Wilmington. Emergency repair projects and/or work not covered by the contract shall be completed on a force account basis unless the parties mutually agree otherwise.
- G. All construction must be done in compliance with the "Occupational Safety and Health Act" of 1970 and all rules and regulations thereto appurtenant.
- H. All trenches shall be cut back one foot on each side prior to placing base course. The cut shall be a mechanical saw cut, straight and true, with a minimum thickness of two inches. The existing pavement and base shall be removed to sub-grade. The Contractor will restore roadway in accordance with City of Wilmington Road Cut Specification/DelDOT Specifications.
- I. A separate contract pay item has been included for the mechanical saw cut. All trenches and excavations shall be neatly saw cut with the finished paving patch true and flush. Any street patch not installed to the satisfaction of the Engineer shall be removed, re-cut, and replaced at the Contractor's expense.
- J. The following pavement cross sections shall be used:
 - a. Hot Mix Surfaced Roadway: 8-12 inches Class B concrete base course, (City) or Class A concrete base course (State) 2 inches of hot mix type C.
 - b. Concrete Roadway: 10-12 inches Class A concrete, reinforced with WWF 66 x 44 wire mesh.
- K. Polyvinyl Chloride pipe (PVC) shall be used on each project unless another type pipe is specified by the Engineer. This pipe will be suitable for non-pressure drainage of sewage and surface water. The pipe shall conform to ASTM Designation: D 3033, Type PSP or D 3034, Type PSM. The SDR number which expresses the ratio of pipe diameter to wall thickness that will be acceptable is SDR-26 and Schedule 40. The Engineer has the authority to specify the desired SDR number, or pipe schedule for each individual project. All fittings and saddles shall be made of PVC plastic and will be subject to the approval of the Engineer. The two joining systems are:

Extreme caution shall be exercised by the Contractor at all times. Any damage caused to existing utility lines, conduits, etc., directly or indirectly, shall be repaired immediately at the Contractor's expense.

Miss Utility of Delaware shall be notified at 1-800-282-8555.

- G. The Contractor shall erect and maintain suitable barricade protection and signs for public safety throughout the project and provide sufficient walking areas and travel ways where required. All barricades shall be mounted with dual, yellow flashing battery-powered lights.

Construction signing and maintenance of traffic shall conform to the "Manual on Uniform Traffic Control Devices for Streets and Highways" published by the U.S. Department of Transportation, Federal Highway Administration.

- H. The Contractor shall keep the trench to a maximum width of five feet (5') unless otherwise instructed by the Engineer. Any material excavated in excess of this limit shall be replaced at the Contractor's expense unless approved by engineer. All trench walls shall be well supported at all times at the expense of the Contractor. The City will pay the Contractor for trench wall support only when the sewer project is completed on a force account (time and material) basis.
- I. Existing sewer lines must be kept free and clear of obstruction and debris at all times; nor shall any part of the construction site be left in an offensive or unsanitary condition. If dirt, construction material, or any other debris enters the sewer line during the construction of the individual project, the Contractor will be required to clean the sewer line, at his expense, to the satisfaction of the Engineer/Inspector.
- J. The Contractor shall remove all unsuitable materials from the job site and dispose of same to the satisfaction of the Engineer. This will be done at the Contractor's expense unless work is being done under force account basis or contaminated soils are involved. Select backfill or approved fill shall be used to replace unsuitable material.
- K. The Contractor and/or his subcontractor shall verify all measurements daily and include on Daily Work Authorization for Itemized Projects. No extra compensation shall be allowed unless approved by the Engineer in writing before proceeding with the work.
- L. The Contractor shall guarantee all work for a period of one (1) year. Any defects appearing before this time shall be repaired upon demand by the City of Wilmington.
- M. Each project under this Contract shall be completed within 10 working days, unless otherwise specified by the Engineer. The owner shall deduct three hundred

- c. Time and one half shall be paid for work performed on Saturday and double time for work performed on Sunday and holidays. Contractor shall furnish a list of the company's observed holidays with its bid.
 - d. Work prior to or beyond the contractor's regular starting and quitting time shall be compensated at the rate of time and one half. The hours for a regular workday for this contract shall be submitted with the proposal forms.
- 3. For all laborer classification not included in the contract, the contractor and the City shall mutually agree on rates to be used.
- B. Contractor to furnish the City's representative with daily copy of labor and equipment time sheets (daily work authorizations (DWA)) and copy of delivery receipts for Contractor's furnished materials. The DWAs shall be signed by a City inspector, each day, with carbon copies provided to the Engineer.
- C. The Contractor is to bill the City every other week for work that has occurred in that time frame. The Contractor shall provide electronic copies of the invoices to the City's Finance Department, Accounts Payable, and hard copies to the Department of Public Works.
- D. Mobilization/Demobilization: The cost for mobilization and demobilization shall be included in the bid items for Itemized and Force Account Projects. There will be no separate billing for mobilization and demobilization or extra hours.
- E. The bidder shall fill out the supplemental equipment rental schedule included on the proposal forms. These items are not included in the totals used for the evaluation of bids; however, the City may request clarification for any rates that are excessive when compared with other qualified bidders. If the Contractor uses any equipment on a job site, which is not listed on the proposal forms, the Contractor shall request approval for the rates by the City's Representative before use of the equipment. Materials furnished by the Contractor will be charged at cost, plus 10%. Cost will be supported by vendor's invoice.
- F. Before employing a subcontractor, the Contractor shall request written approval from the City by submitting subcontractor information as outlined in Construction Contracts General Conditions.

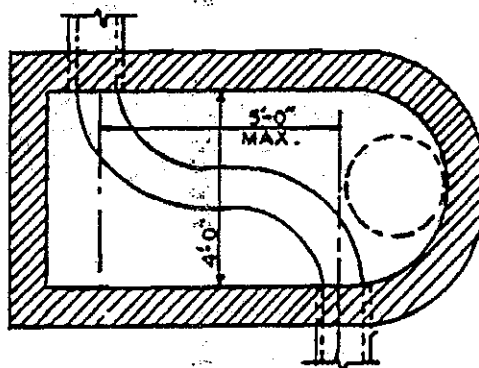
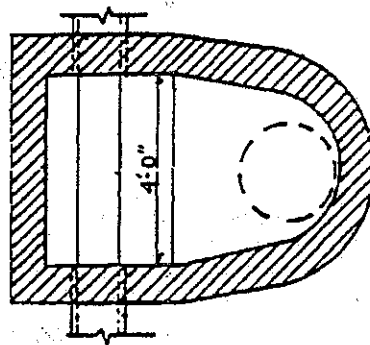
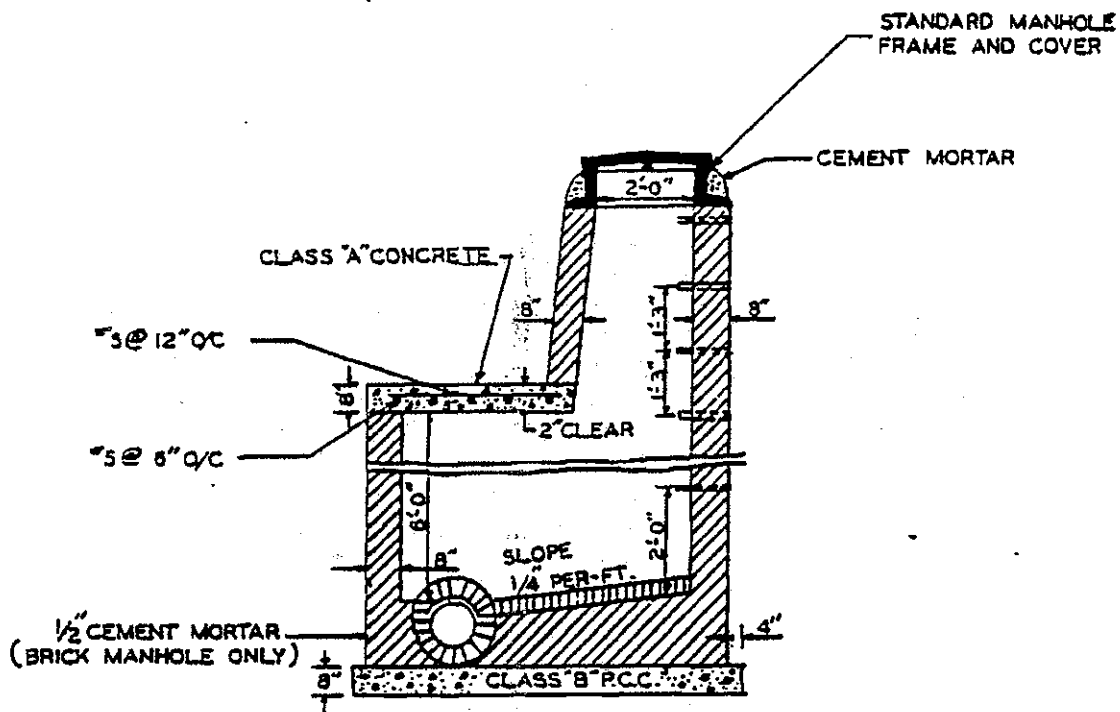
sum 10% will be added. Rates may be revised using the Rental Rate Blue Book for Construction Equipment as a guide for determining the rates.

- L. The bidder shall fill out the supplemental equipment form included with proposal forms. These items are not included in the totals used for the evaluation of bids; however, the City may request clarification for any rates which are excessive when compared to other qualified bidders or the rental rate blue book. If the contractor uses any equipment on a job site which is not listed on the proposal form, the contractor shall request approval for the rates by the City's representative.
- M. Miscellaneous. No additional allowances will be made for general superintendent, the use of small tools, or other costs for which no specific allowance is herein provided.
- N. Compensation. The contractor's representative and the Engineer/Inspector shall compare records daily of the cost of work done as ordered on a force account basis.
- O. All hot mix paving will be performed by the Contractor unless otherwise specified by an authorized representative.
- P. Pipe-in place shall be paid at unit price bid per linear foot. Price and payment shall include full compensation for furnishing and placing all materials for all labor, equipment, tools, and miscellaneous structures including reducers (P.V.C.P.), 1/8 bends, saddles, 1/4 bends, etc., to connect to existing main sewer lines.
- Q. Item 16 (with the exception of 16A2-Manholes) price and payment shall include full compensation for furnishing, installing, and placing all materials for all labor, equipment, tools, and miscellaneous structures. Excavation & Removal, Roadway Restoration, and Saw cutting will be paid for separately per bid items in contract. These items will be the same for City-maintained or State-maintained highways, streets, and sidewalks.
- R. Item 16A2-Manholes price and payment shall include full compensation for Excavation & Removal, Roadway Restoration, Saw cutting, furnishing, installing, and placing all the material, for all labor, equipment, tools, and miscellaneous structures. This item will be the same for City-maintained and State-maintained highways, streets, and sidewalks.
- S. All item numbers in Section I price and payment shall include full compensation for furnishing, installing, and placing all materials including all labor equipment, and tools. These items shall remain the same for City-maintained and state-maintained roads, highways, and sidewalks.

Work At or Near Known or Suspected Contaminated Sites: See Special Provisions

Protection of Trees Within Project Limits: See Special Provisions

Sample Invoice: The attached invoice is a sample of the information required for invoicing. See Special Provisions



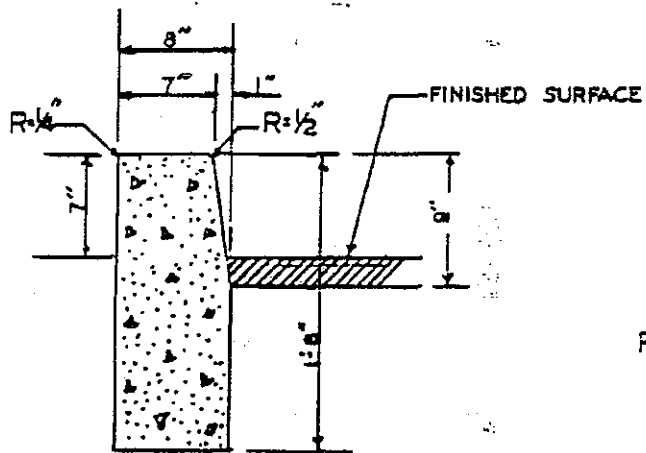
NOTES

1. WALLS AND BOTTOM SHALL BE BRICK OR CLASS "A" CONCRETE POURED IN PLACE. INVERT SHALL BE BRICK LAID ON EDGE.
2. WHERE COVER OVER PIPE IS LESS THAN 5' USE SHALLOW MANHOLE
3. THICKNESS OF WALLS TO BE INCREASED TO 12" 12'-0" BELOW UNDERSIDE OF FRAME.
4. IN LOW WET GROUND WALLS SHALL BE 12" THICK THROUGHOUT AS DIRECTED
5. MAXIMUM DROP ACROSS CHANNE: SHALL BE 0.3 FOOT.

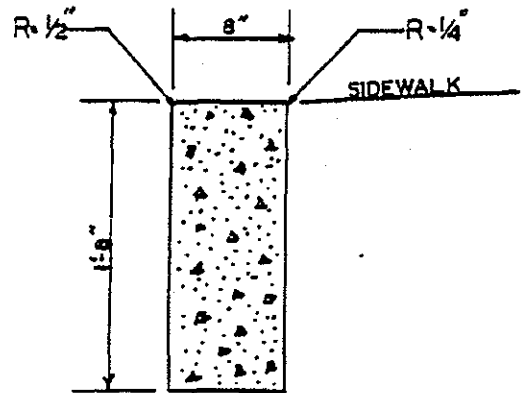
DEPARTMENT OF
PUBLIC WORKS

OFFSET MANHOLE
WITH CONCRETE SLAB

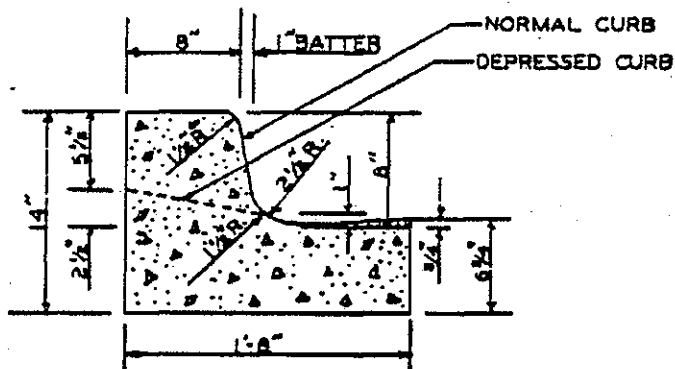
DATE: 10-18-77
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PLATE: S-8



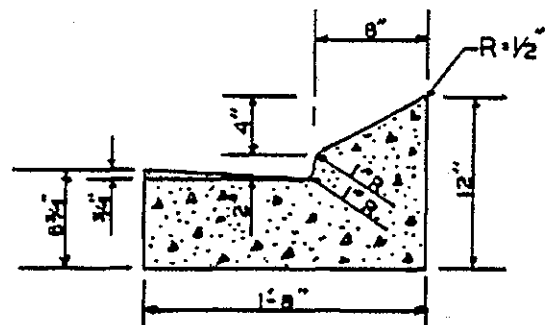
TYPE "A"



TYPE "1"



INTERGRAL P.C.C. CURB & GUTTER
TYPE "3"

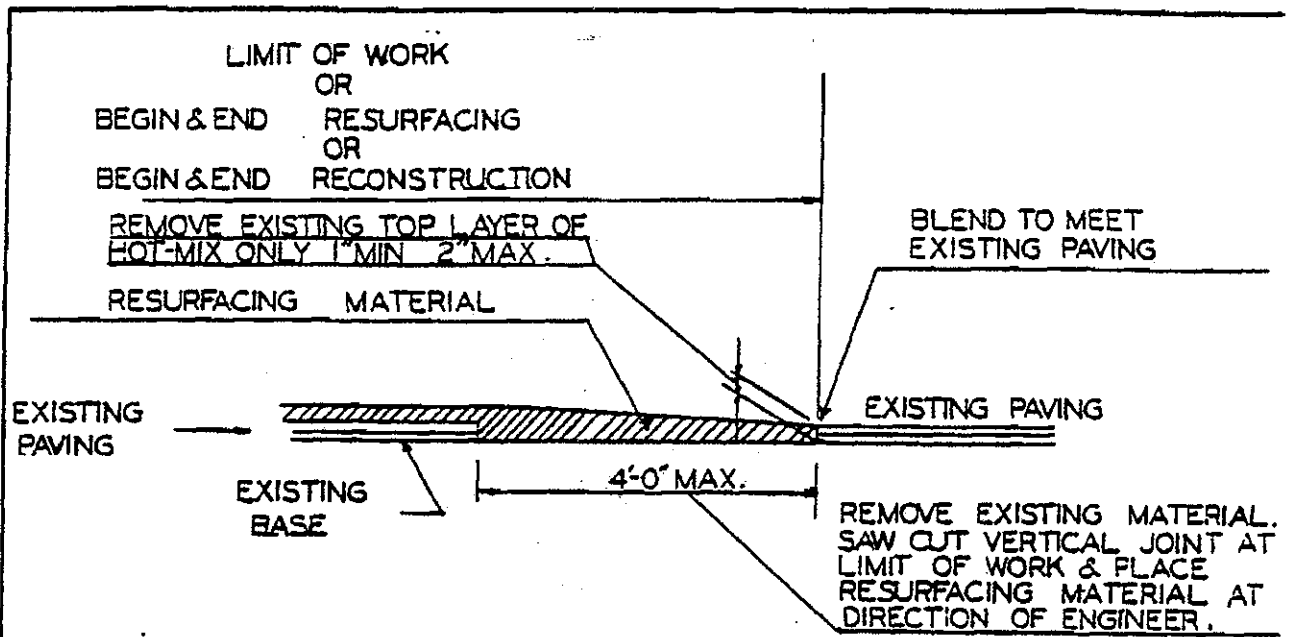


P.C.C. PARKWAY CURB
TYPE "3"

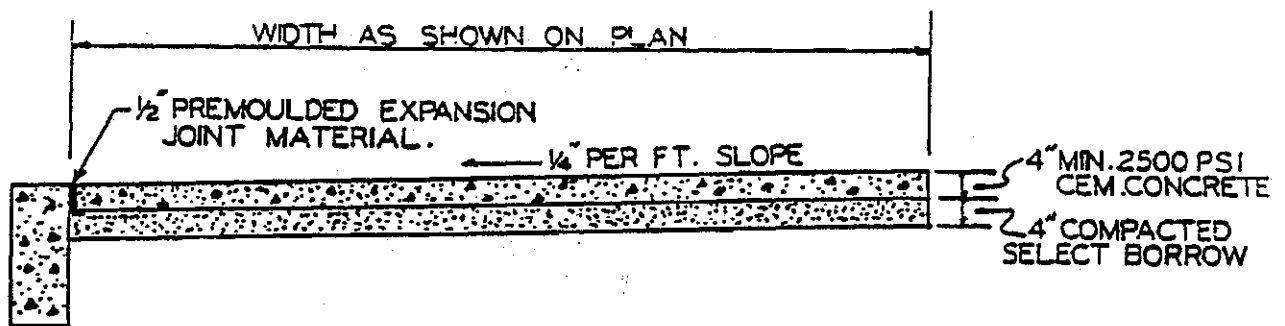
DEPARTMENT OF
PUBLIC WORKS
WILMINGTON, DELAWARE

STANDARD CURB DETAILS
SCALE: 1" = 1'-0"

DATE: 10-18-77
REVIS: ---
REVIS: ---
PLATE: P-1



TYPICAL CUT JOINT DETAIL

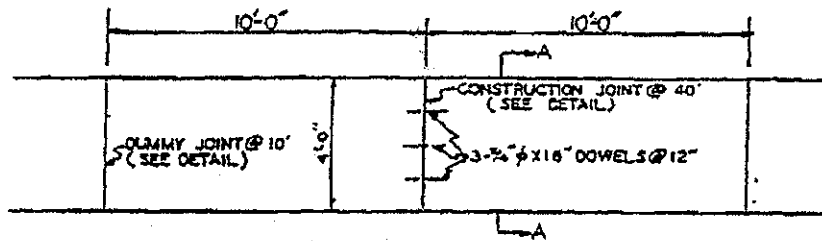


TYPICAL CEMENT CONCRETE WALK

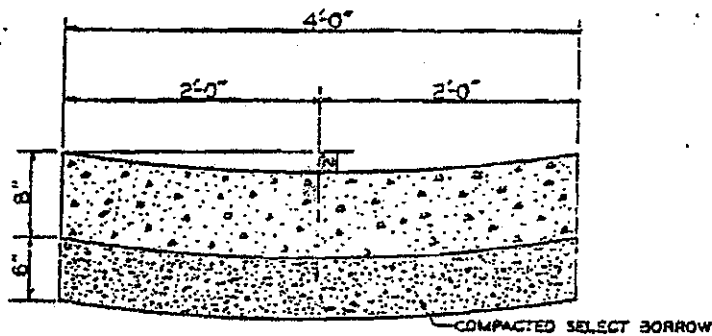
DEPARTMENT OF
PUBLIC WORKS
WILMINGTON, DELAWARE

CUT JOINT DETAIL (TYP) &
CEMENT CONCRETE WALK (TYP)
SCALE: 1/2" = 1'-0"

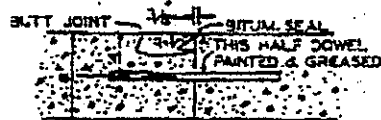
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PLATE: P-6



PLAN
SCALE: 1/4" = 1'-0"



SECTION A-A
SCALE: 1" = 1'-0"



CONSTRUCTION JOINT DETAIL
SCALE: 1" = 1'-0"

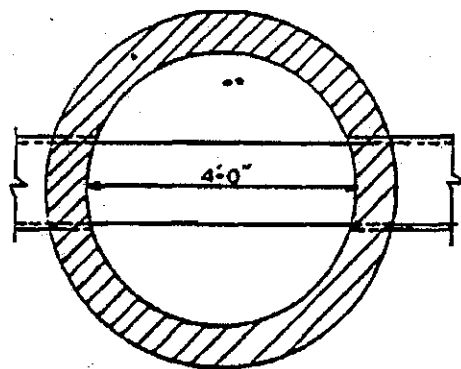
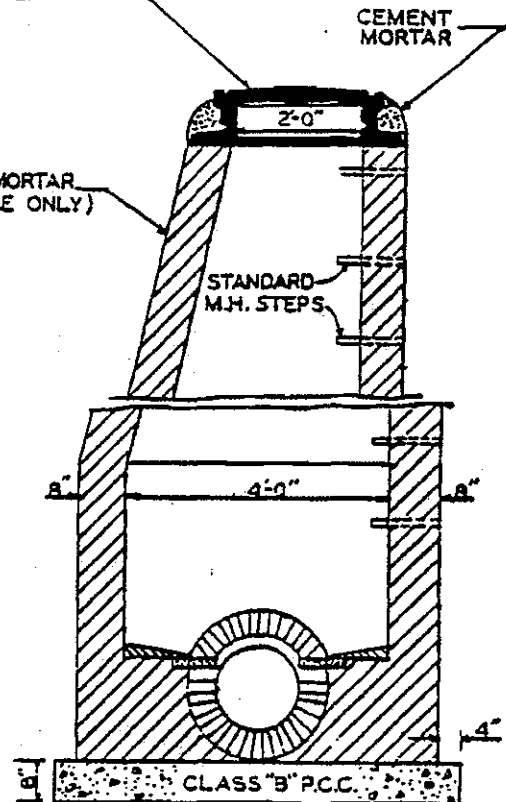
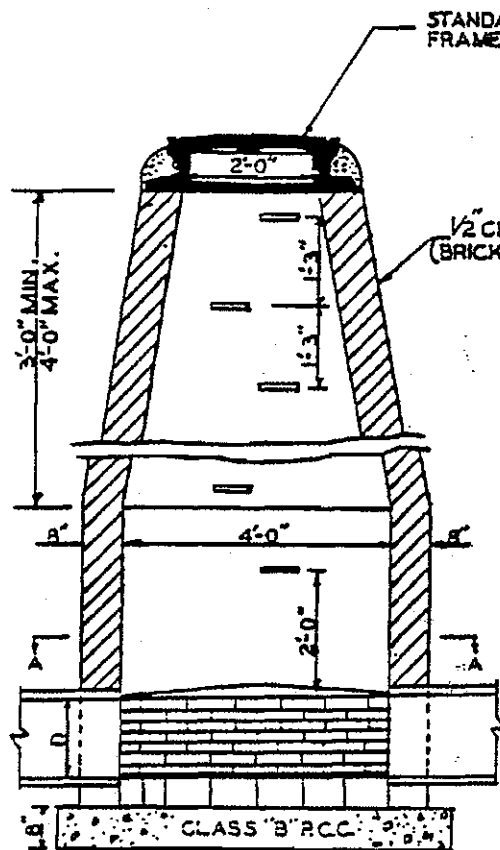


DUMMY JOINT DETAIL
SCALE: 1" = 1'-0"

DEPARTMENT OF
PUBLIC WORKS

P.C.C. VALLEY GUTTER
SCALE: AS SHOWN

DATE: 10-18-77
REVIS: _____
REVIS: _____
PLATE: P-4



SECTION A-A

NOTE:

1. WALLS AND BOTTOM SHALL BE BRICK OR CLASS "A" CONCRETE POURED IN PLACE. INVERT SHALL BE BRICK LAID ON EDGE.
2. WHERE COVER OVER PIPE IS LESS THAN 5' USE SHALLOW MANHOLE.
3. THICKNESS OF WALLS TO BE INCREASED TO 12", 12'-0" BELOW UNDERSIDE OF FRAME.
4. IN LOW WET GROUND WALLS SHALL BE 12" THICK THROUGHOUT AS DIRECTED
5. MAXIMUM DROP ACROSS CHANNEL SHALL BE 0.3 FOOT.

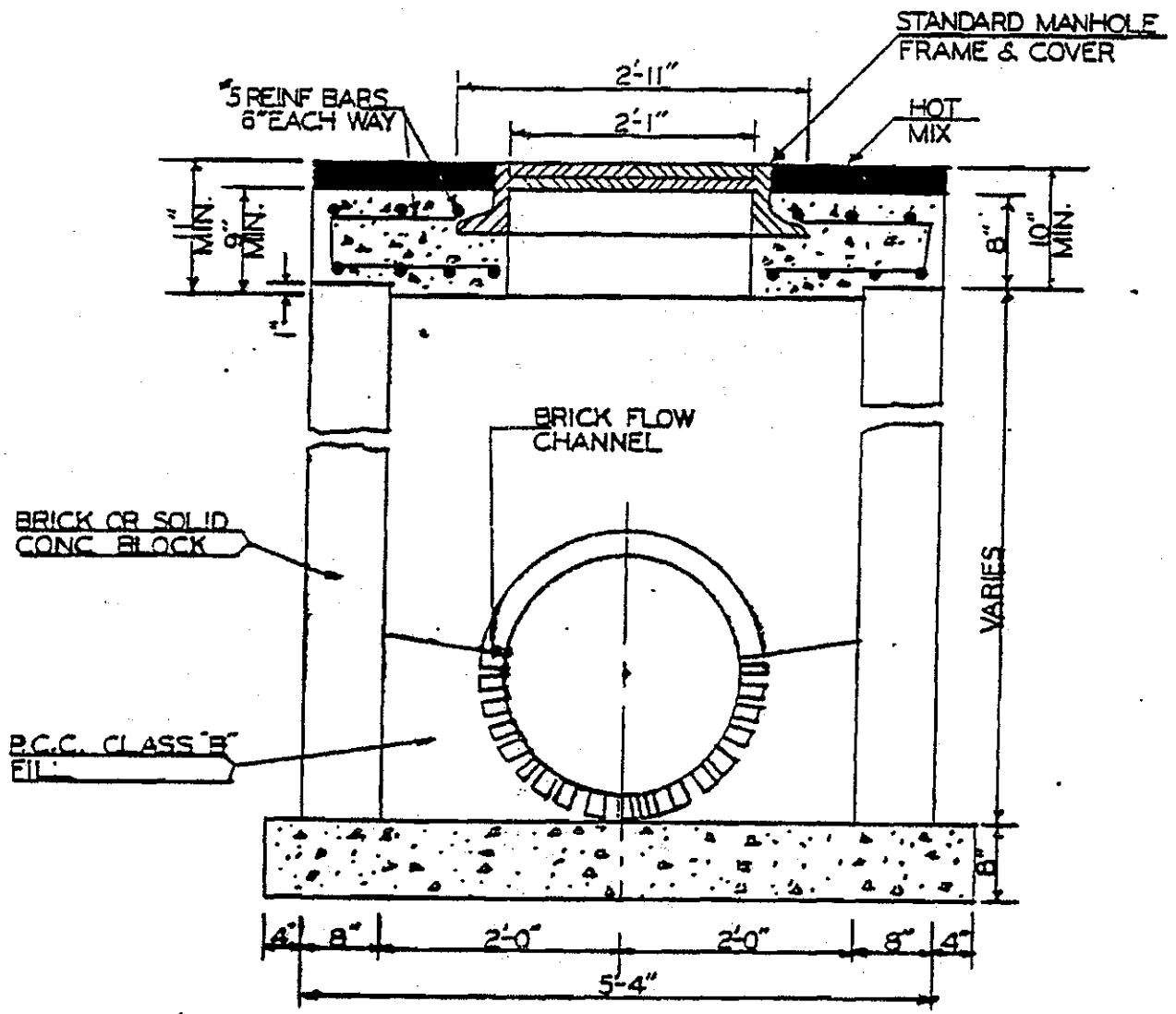
DEPARTMENT OF
PUBLIC WORKS
WILMINGTON, DELAWARE

STANDARD MANHOLE

DATE: 10-18-77
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REVIS: _____
PLATE: S-1

[illegible]

DATE: 10-18-77
REVTS: - - - - -
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DATE: 5-4--

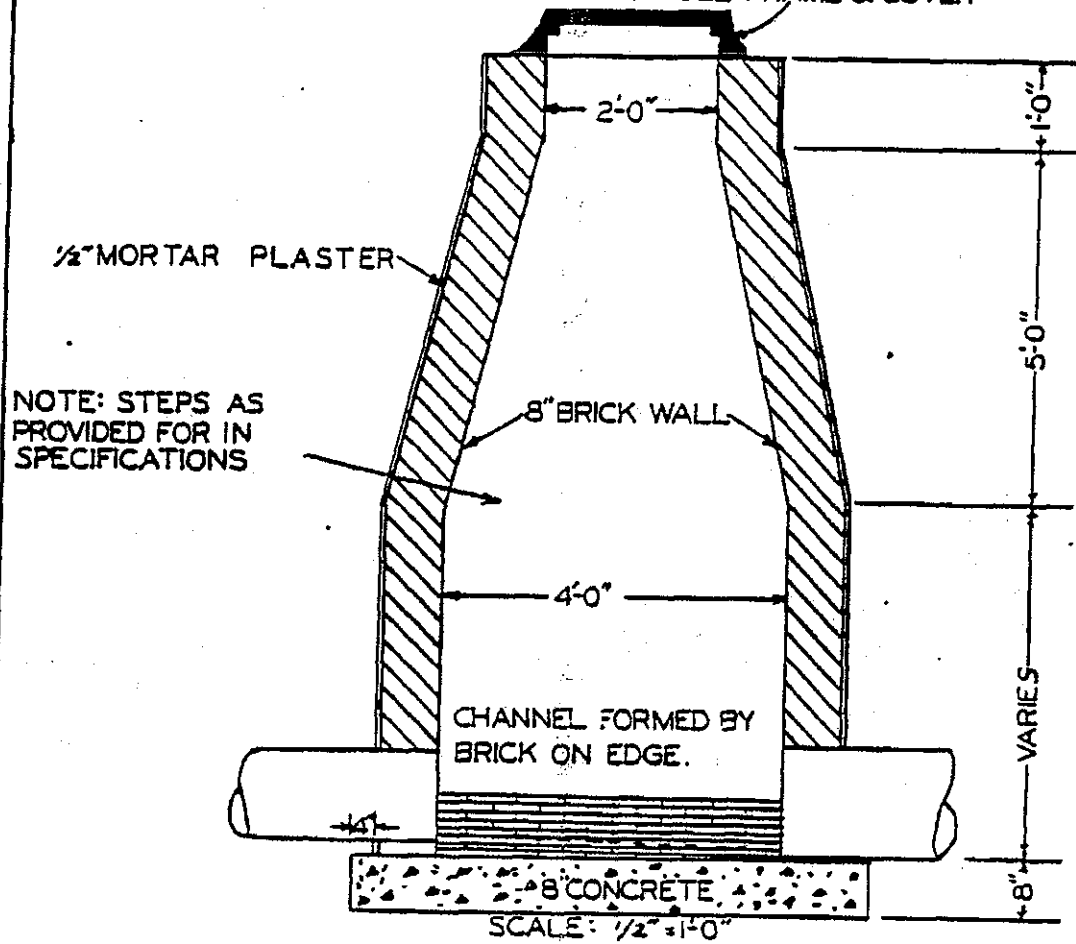


DEPARTMENT OF
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WILMINGTON, DELAWARE

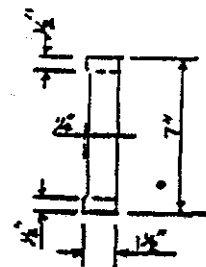
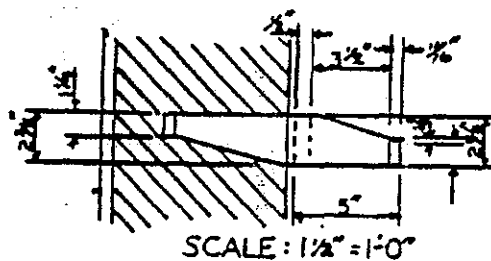
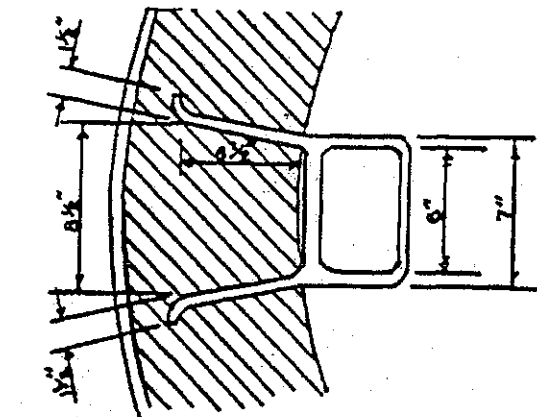
MANHOLE
TYPE -W
SCALE: 3/4" = 1'-0"

DATE: 12-18-77
REVIS: _____
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PLATE: S-3

WILMINGTON STANDARD MANHOLE FRAME & COVER



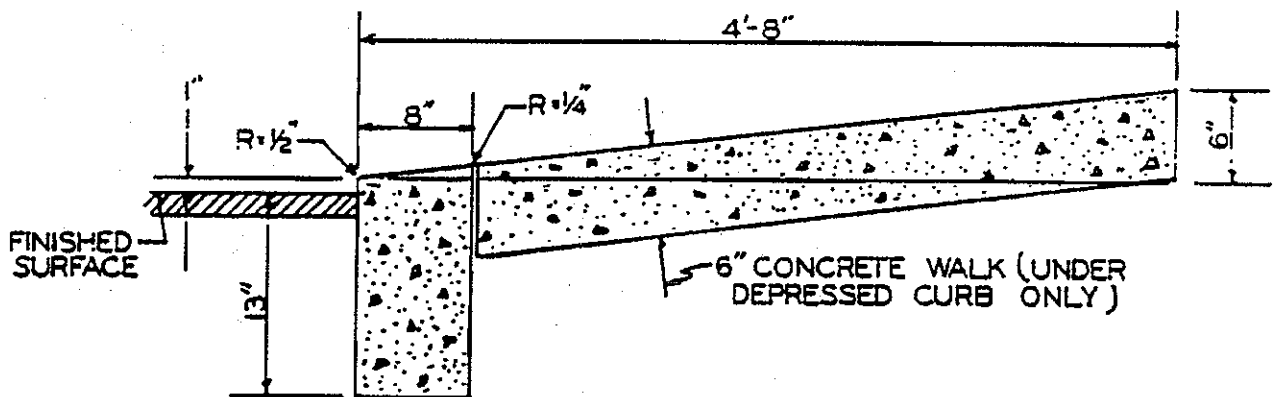
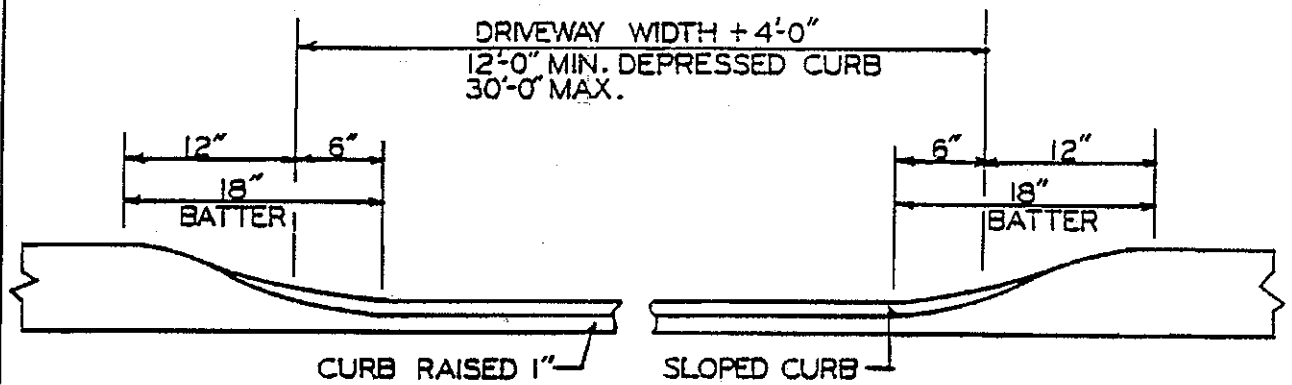
NOTE: STEPS AS PROVIDED FOR IN SPECIFICATIONS



DEPARTMENT OF
PUBLIC WORKS
WILMINGTON, DELAWARE

STANDARD MANHOLE
SECTION & STEP

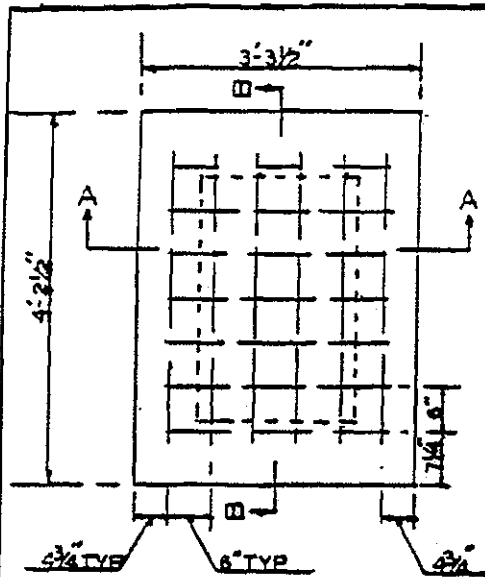
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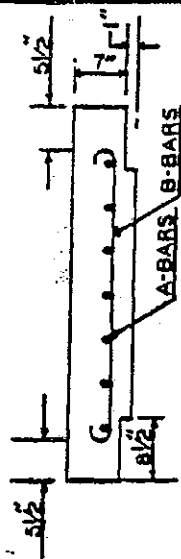
DEPARTMENT OF
PUBLIC WORKS
WILMINGTON, DELAWARE

DRIVEWAY APPROACH (TYP)
& DEPRESSED CURB (TYP)

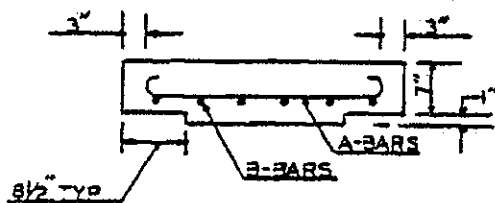
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PLATE: P-2



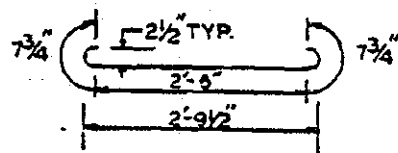
PLAN



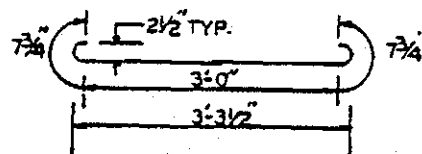
SECTION B-B



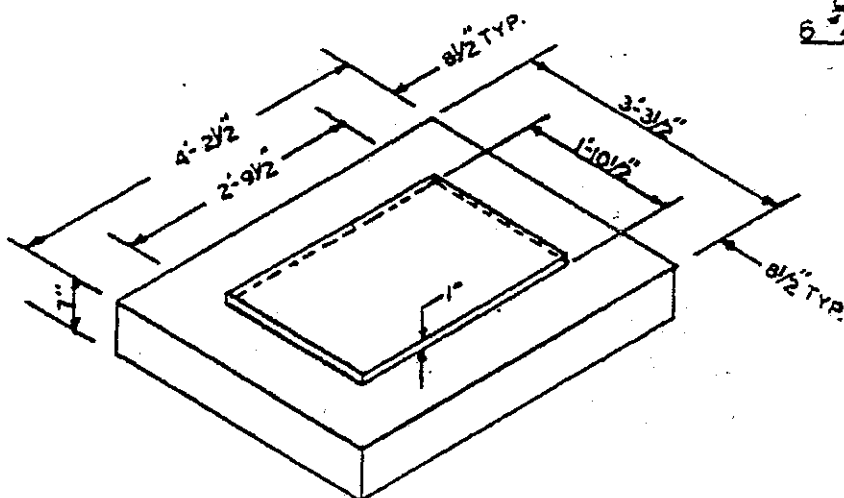
SECTION "A-A"



BAR-A
7 #4 BARS 2'-9 1/2" LONG



BAR-B
6 #4 BARS 3'-3 1/2" LONG



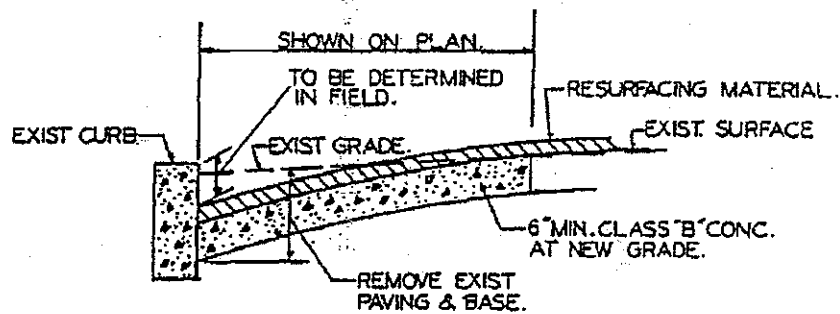
ISOMETRIC VIEW
BOTTOM SIDE UP

NOTE: FOR CONVERSION TO
JUNCTION BOX.

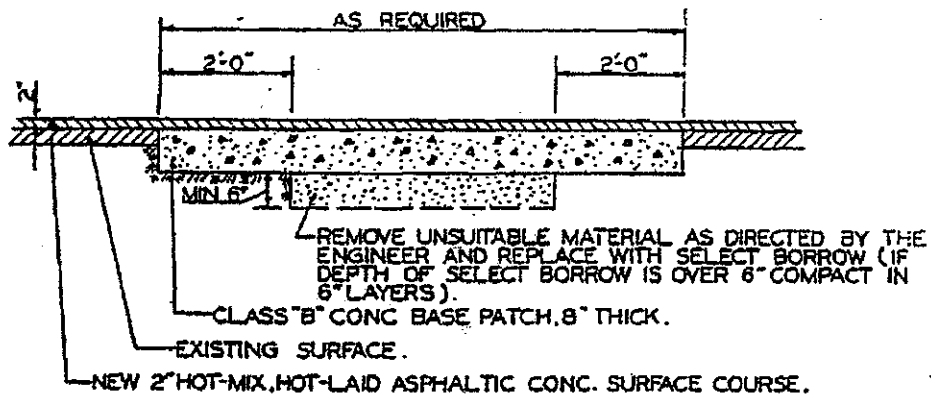
DEPARTMENT OF
PUBLIC WORKS
WILMINGTON, DELAWARE

REINF CONCRETE COVER
FOR TYPE 1 (SINGLE C.B.)
SCALE: 1/2" = 1'-0"

DATE: 10-18-77
REVIS: ---
REVIS: ---
PLATE: C-6



TYPICAL GRADE ADJUSTMENT PATCH.
NOT TO SCALE



TYPICAL STREET PATCH
SCALE: 1/2" = 1'-0"

DEPARTMENT OF
PUBLIC WORKS
WILMINGTON, DELAWARE

STANDARD PATCH DETAILS
SCALE: AS NOTED

DATE: 10-18-77
REVIS: ---
REVIS: ---
PLATE: P-5

SPECIAL PROVISIONS

Work At or Near Known or Suspected Contaminated Sites

The City of Wilmington has an industrial history dating back to the mid 1600's. As a result, there are many sites within the City that have known or potential contamination located in either the soil and/or the groundwater. Some of these contaminated properties are known, others are yet to be discovered. Therefore, contractors responding to this request for proposal ("RFP") which involves intrusive ground work in various undetermined locations throughout the City must be prepared to properly deal with the site contamination issues. The contractor should be aware that often if soil or water is contaminated, it must be managed in a manner different from normal protocols. In addition, often if hazardous soil or water is disturbed, it must be disposed of off site. The contractor must also make every effort to ensure that there is no exacerbation of contamination when performing work at a contaminated site. Accordingly, the contractor must provide details on two items in its response to the RFP: (1) demonstrate that the contractor is certified by the Delaware Department of Natural Resources and Environmental Control ("DNREC") pursuant to the requirements of Delaware's Hazardous Substance Cleanup Act ("HSCA") as a "Certified HSCA Consultant" for work at or near contaminated sites or provide proof of a contract with Certified HSCA Consultant who will provide oversight for the contractor at or near contaminated sites; and (2) provide an estimate to prepare a Site Safety, Health, and Emergency Response Plan ("SSHERP") for performing intrusive ground work at or near contaminated sites.

Environmental Consultant. The Certified HSCA Consultant selected by the contractor must be certified by DNREC pursuant to the requirements of HSCA, 7 Del. Code, Chapter 91. (DNREC's website contains the current list of HSCA Certified Consultants.) The HSCA Certified Consultant shall assist with the environmental aspect of the work to be performed including discussions with DNREC, management of worker exposure issues, proper management and disposal of soil and water discharged from the dewatering activities and safety oversight. The HSCA Certified Consultant selected must demonstrate the capacity to provide oversight of intrusive work on a contaminated site 24 hours a day, seven days a week in the event of an emergency repair. The HSCA Certified Consultant will be responsible for all state, federal and local reporting requirements, which may be triggered when working at a contaminated site.

If and when a HSCA Certified Consultant is needed during the course of this contract, this item/payment will be discussed by the Contractor and The City of Wilmington as to how the cost will be handled.

Site Safety, Health and Emergency Response Plan (SSHERP). It is the responsibility of the contractor to develop and implement a SSHERP to assure that all federal, state and local statutes and regulations are complied with when performing work at a contaminated site and that the health and safety of employees are protected. The SSHERP must also include an excavation of materials handling plan. The City will make available its own SSHERP in draft-final format, which the selected HSCA Certified Consultant may choose to review and adopt. However, the City makes no representations as to the completeness or sufficiency of this plan and the document is supplied only for informational purposes. No fieldwork shall begin until the SSHERP has been submitted to DNREC and the City engineer or his/her designated representative for review.

COMPANY LOGO**INVOICE**

Invoice #
Invoice date
PO #
City Contract #
Billing Period
Job Number if needed/contractor

JOB SITE LOCATION
Brief description of work

Invoices should be broken down according to>>>>

PERSONNEL

	<u>AMT</u> HRS	RATE/HR	SUB TOTAL	TOTAL
Forman:	xx	\$	\$	\$
OT				
Laborer:				
OT				
Operator				
OT				
Driver				
OT				
Etc				

EQUIPMENT:

Type	xx	\$	\$	\$
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MATERIAL:

All material must be listed according to paid receipts that are to be provided with each invoice.

**** Daily reports are also to be attached to the invoice – daily reports will include all information listed above. Certified payroll is to be attached to each invoice. The invoice is actually a summary of the attached information behind the invoice.

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but it is not guaranteed that these estimated quantities are accurate, and if the Contractor, in making up and/or submitting his bid or bids, relies upon the accuracy of such estimated quantities, he does so at his own risk.

PROPOSAL FORM

The Bidder will be furnished — by the Manager — with proposal forms which will show the approximate estimate of the various quantities of work to be performed and materials to be furnished under the unit and lump sum price items.

The Bidder shall submit his proposal on the forms furnished by the Manager. The blank spaces in the proposal shall be filled in correctly where indicated, for each and every item, and the Bidder shall state the prices (written in ink, in words and numerals) for which he proposes to do each item of the work contemplated. In case of discrepancy between the written figures and the numerals, the written figures shall govern.

The Bidder shall sign his proposal correctly. If the proposal is made by an **individual**, his name and post office address shall be shown. If made by a **firm or partnership**, the name and post office address of the firm or partnership, and of each member thereof, shall be shown. If a **corporation**, the successful bidder shall furnish a certificate from the Secretary of State or commonwealth where the firm is incorporated stating the company is a presently subsisting corporation of that state or commonwealth and the date of its incorporation.

Further, the successful bidder shall furnish an original and two copies of excerpts from the minutes of the corporation authorizing its President or Vice President to execute the necessary Contract on behalf of the Corporation, and an original and two copies of the resolution authorizing the Secretary or the Assistant Secretary to attest Contract Documents and the names of all officers qualified to sign for your company.

IRREGULAR PROPOSALS

Proposals may be rejected if they show any omissions, alterations of form, additions not called for, conditional or alternative bids, or irregularities of any kind.

UNRESPONSIVE OR UNBALANCED BIDS

To better insure fair competition, and to permit a determination of the lowest bidder, unresponsive bids or bids obviously unbalanced, may be rejected by the Manager.

FAMILIARITY WITH PROPOSED WORK

The Bidder is required to examine carefully the site of the work, the proposal, the plans, specifications and other contract documents for the work contemplated and it will be assumed that he had familiarized and satisfied himself as to the conditions and obstacles to be encountered, as to the character, quality and quantities of work to be performed and materials to be furnished, and as to the requirements of these specifications, plans and other contract documents and he must be prepared to execute a finished job in every particular, without any extra charge whatever, except as may be specifically provided for elsewhere in these contract documents.

FAMILIARITY WITH LAWS, ETC.

The Bidder is assumed to have made himself familiar with all Federal, State, Local, and municipal laws, ordinances, rules and regulations which in any manner affect those engaged or employed in the work, or the materials or equipment used in or upon the work, or in any way affect the work, and no plea of

MATERIAL SAMPLES

Before any contract is awarded, the Bidder may be required to furnish a complete statement of the origin, composition and manufacture of any and all materials to be used in the work, together with samples, which samples may be subjected to the tests provided for in these specifications to determine their quality and fitness for the work.

AWARD AS AN ENTIRETY

While bids are asked for by items, the contract will not be awarded by items, but will be awarded as an entirety, on the basis of the "Bid Total," which total must be the aggregate sum of the bids on all items figured at the unit and lump sum prices bid. Bidders shall bid on all items.

EXECUTION OF CONTRACT

The successful bidder will be required promptly to execute a formal contract upon blank forms with proper insertions furnished by the Owner. Successful bidder will insert on the first page of the contract the date of the day the contract is executed by his company. All copies of the Contract must be properly executed by qualified officers of the company and the Corporate Seal affixed thereto.

FAILURE TO EXECUTE CONTRACT

Failure to execute the contract within ten (10) days after written notice of the award, shall be just cause for the annulment of the award, and it is understood by the Bidder, in the event of the annulment of the award, that the amount of the certified check with the proposal may be forfeited to the use of the City, not as a penalty, but as liquidated damages.

COMMENCEMENT OF WORK

Work at the site shall be commenced within ten (10) days after the date of the contract and shall be completed within the time stated in the proposal.

Construction Contracts

General Conditions

COMPENSATION AND LIABILITY INSURANCE

Except as otherwise provided by law, the Contractor shall, at all times, maintain and keep in force such insurance as will protect him from claims under workmen's compensation acts, also such insurance will protect him and the City from any other claims for damages for personal injuries, including death, which may arise from operations under this contract, whether such operations be by the Contractor or by any subcontractor or anyone directly or indirectly employed by any of them, in any amount specified by the Chief Engineer of the Department of Public Works. The Contractor shall also, at all times, maintain and keep in force such insurance, in an amount specified by the Chief Engineer of the Department of Public Works, as will protect him and the City, its agents and employees from all suits, actions, claims, demands, damages, losses, expenses, and/or costs of every kind and description to which the City may be subjected or put by reason of injury (including death) to persons or property resulting from the manner or method employed by the Contractor, his agents and employees, or subcontractors, or from any neglect or default of the Contractor, his agents, employees, or subcontractors, in the performance of this contract, or any part thereof, or from, by, or on account of any act or omission of the Contractor, his agents and employees, or subcontractors, and whether such suits, claims, actions, demands, damages, losses, expenses, and/or costs be against, suffered, or sustained by other corporations and persons to whom the City, its agents and employees, may become liable therefor.

LIABILITY OF CONTRACTOR

Whenever the Contractor is required by the existing State, Federal, local or municipal law, ordinance, rules or regulations, or by any State, Federal, local, or municipal laws, ordinances, rules or regulations that may be enacted hereafter pertaining to the work to be done under this contract, to secure any permits or licenses to carry on any operation or operations in connection with the performance of the contract and/or to act under the direction or supervision of a City official and/or employee in connection with any such operation or operations, the Contractor shall be solely liable for all suits, actions, costs and damages of every kind and description resulting or which may result, directly or indirectly, from any such operation or operations and shall indemnify and save harmless the City from any and all suits, actions, costs, and damages of every kind and description arising or which may arise, directly or indirectly from the said operation or operations.

INDEMNIFICATION OF THE CITY

The contractor shall pay, indemnify, and save harmless the City, its agents and employees from all suits, actions, claims, demands, damages, losses, expenses, and/or costs of every kind and description to which the City may be subjected or put by reason of injury (including death) to persons or property resulting from the manner or method employed by the Contractor, his agents and employees, or subcontractors, or from neglect or default of the Contractor, his agents and employees or subcontractors in the performance of this contract or any part thereof or from, by, or on account of any act or omission of the Contractor, his agents and employees, or subcontractors, and whether such suits, actions, claims, demands, losses, expenses, and/or costs against, suffered, or sustained by the City, his agents and employees, may become liable therefor, and the whole, or so much of the monies due, or become due the Contractor under this contract or any other contract as may be considered necessary by the Engineer may be retained by the City until such suits or claims for damages shall have been settled or otherwise disposed of the satisfactory evidence to that effect furnished to the Engineer.

specifications therefore, or in the best workmanlike manner as directed. This extra work will be paid for at a unit price or lump sum to be agreed upon previously, in writing, by the Contractor and the Engineer, or where such a price or sum cannot be agreed upon by both parties, or where this method of payment is impracticable, the Engineer may order the Contractor to do such work on a "force account" basis.

FORCE ACCOUNT WORK

All extra work done on a "force account" basis will be paid for in the following manner:

1. For all labor and foremen in direct charge of the specific operation, the Contractor shall receive the rates of wage applicable to this contract, for each and every hour that said labor and foreman are actually engaged in such work.
2. For all material used, the Contractor shall receive the actual cost of such materials, as shown by original receipted bills.
3. An additional amount of twenty-five percent (25%) of the total cost of labor and materials of 1 and 2 above shall be added to allow for profit and overhead of subcontractors and a Contractor.
4. For any machine-power tools or equipment and for any hauling equipment, including fuel and lubricants, which it may be deemed necessary or desirable to use, the Engineer shall allow the Contractor a reasonable rental price, to be agreed upon in writing before such work is begun, for each and every hour that said tools or equipment are in use or on such work, and to its sum no percentage shall be added.

The compensation as herein provided shall be received by the Contractor as payment in full for extra work done on a "force account" basis, and shall include superintendents, use of tools and equipment to which no rental is allowed, and profit. The Contractor's representative and the Inspector shall compare records of extra work on a "force account" basis at the end of each day. Copies of these records shall be made in duplicate, upon the Engineer's "force account" forms provided for this purpose by the Inspector and signed by both the Inspector and the Contractor's representative, one copy being forwarded respectively to the Engineer and to the Contractor. All claims for extra work done on a "force account" basis shall be submitted to the Engineer by the Contractor upon certified triplicate statements, which shall also include the value of all material used in such work, and following that in which the work was actually performed and shall include all labor charges, etc., and material charges insofar as they can be verified.

Should the Contractor refuse or fail to prosecute the work as directed or submit his claim as required, the Engineer may withhold payment of all current estimates until the Contractor's refusal or failure is eliminated, or after giving the Contractor due notice, the Engineer may make payment for said work on the basis of reasonable estimate of the value of the work performed.

On extra work as defined in this paragraph, the Contractor will be reimbursed for his expenditures for Workmen's Compensation Insurance, Social Security taxes, and Unemployment Compensation covering the men actually engaged upon such work. No percentage will be added to such payments, but the Contractor shall be entitled to receive only the actual amount of money expended for such Workmen's Compensation Insurance, Public Liability Insurance, Social Security taxes, and Unemployment Compensation. Such payments shall be based upon the prevailing standard insurance

COOPERATION OF CONTRACTOR AND REPRESENTATIVE

The Contractor shall give the work his constant attention to facilitate the progress thereof and shall cooperate with the Engineer in every way possible. The Contractor shall have at all times competent and reliable English-speaking representatives on work, authorized to receive orders and act for him.

LAWS TO BE OBSERVED

The Contractor at all times shall observe and comply with all Federal, State, local and municipal laws, ordinances, rules, and regulations in any manner effecting the work, and all such orders or decrees as exist at present and those which may be enacted later, of bodies or tribunals having any jurisdiction or authority over the work, and shall indemnify and save harmless the City and all its officers, agents, and servants against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, rule, order, or decree, whether such violations be by the Contractor, or any subcontractor, or any of their agents, and/or employees.

SANITARY PROVISIONS

The Contractor shall provide and maintain a neat sanitary condition, such sanitary conveniences and accommodations for the use of his employees as may be necessary to comply with the requirements and regulations of the Department of Health or of other bodies or tribunals having jurisdiction thereof. He shall commit no public nuisance.

WATER SUPPLY

Where water directly from the City-owned water mains is available, it will be supplied to the Contractor upon request and approval, at regular meter and/or rental rates, at the nearest available hydrant or outlet, and no other water shall be used for any purposes connected with the contract, except by permission of the Engineer.

The Contractor will be required to provide approved, standard tight hose, and fittings with which to make connection to hydrants and outlets. No improper, wasteful, or undue use of water will be permitted.

The Contractor shall procure from the Water Department a regular wrench for use on hydrants and no other wrench shall be used. He shall conform to all the rules and regulations of the Water Department in connection with the use of water hydrants, pipes, etc.

Where water directly from the City-owned water mains is not available, the Contractor shall, at his own cost and expense, provide such quantities of clean water as may be required for any and all purposes under the contract. He shall supply sufficient drinking water to allow his employees, but only from such sources as are approved by the Engineer and no other water shall be used for drinking purposes.

PUBLIC CONVENIENCE AND SAFETY

The Contractor at all times shall conduct the work in such a manner as to insure the least obstruction to traffic practicable. The convenience of the general public and of the residents and occupants or property along and adjacent to the work shall be provided for in an adequate and satisfactory manner. Materials stored upon highway shall be placed so as to cause as little obstruction to the traveling public as is considered necessary. Fire hydrants on or adjacent to the work shall be kept accessible to fire apparatus at all times, and no material or obstruction shall be placed within fifteen (15) feet of any such hydrant. Footways and portions of highways and streams adjoining the work under construction shall not be obstructed more than is absolutely necessary. All gutters and sewer inlets shall be kept

SUPERVISION BY ENGINEER

The work is to be carried out under the supervision of the Engineer to his entire satisfaction. The work and materials shall be strictly of the best quality of the kinds specified herein, and should any work or materials other than those specified as shown be introduced into the construction of the work, the Engineer, or his authorized agent, shall have full power to reject them, and they shall be removed from the premises in three (3) days by the Contractor after being notified to do so.

AUTHORITY OF ENGINEER

The Engineer shall in all cases determine the amount of quantity, quality, acceptability of the work and materials which are to be paid for under this contract and shall decide all questions in relation to said work and the performance thereof; and shall, in all cases, decide questions which may arise relative to the fulfillment of the contract to the obligations of the Contractor thereunder.

AUTHORITY AND DUTIES OF INSPECTORS

Inspectors employed by the Owner shall be authorized to inspect all work done and materials furnished. Such inspection may extend to all or part of the work to the preparation or manufacture of the materials to be used. An inspector will be stationed on the work to report to the Engineer as to the progress of the work and the manner in which it is being performed; also to report whenever it appears that the materials furnished and the work performed by the Contractor fail to fulfill the requirements of the specifications and contract, and to call to the attention of the Contractor any such failure or other default, but no inspection, nor any failure to inspect, at any time or place, however, shall relieve the Contractor from any obligation to perform all of the work strictly in accordance with the requirements of the specifications. In case of any dispute arising between the Contractor and the Inspector as to materials furnished or the manner of performing the work, the Inspector shall perform such other duties as are assigned to him. He shall not be authorized to revoke, alter, enlarge, relax, or release any requirements of these specifications, not to approve or accept any portion of the work, nor interfere with the management of the work by the Contractor. Any instructions which the Inspector may give the Contractor shall in no way be construed as binding by the Engineer or the City in any way, nor releasing the Contractor from the fulfillment of the terms of the contract.

INSPECTION OF MATERIALS AND WORK

The Contractor shall furnish the Engineer with every reasonable facility for ascertaining whether or not the work as performed is in accordance with the requirements and intent of the specifications and contract. If the Engineer requests it, the Contractor, at any time before acceptance of the work, shall remove and/or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standards required by the specifications. Should the work thus exposed or examined prove acceptable, the uncovering, removing, replacing the covering, and/or making good the parts removed shall be paid for as "Extra Work," but should the work exposed or examined prove unacceptable, either in whole or in part, the uncovering, removing, replacing of the covering and/or making good of the parts removed, shall be at the Contractor's expense.

DEFECTIVE MATERIALS AND WORK

All materials not conforming to the requirements of these specifications shall be considered defective, and all such materials, whether in place or not, shall be rejected and shall be removed immediately from the work unless otherwise permitted. No material which has been rejected, the defects of which have been corrected or removed, shall be used until approval has been given. All work which has been rejected or condemned shall be remedied, or if necessary, removed and replaced in an acceptable manner by the Contractor at his own expense.

against him unsatisfied for a period of forty-eight (48) hours or shall make an assignment for the benefit of creditors or shall fail to make prompt payment for all subcontractors and/or material, for material and/or labor supplied, or shall persistently disregard any State, Federal, local or municipal laws, ordinances, rules, or regulations pertaining to the work or shall disregard the instructions of the Engineer, or from any other cause whatsoever shall not carry on the work in an acceptable manner, the Engineer may give notice in writing, mailed to the Contractor and/or Surety of such delay, neglect, default, specifying same, and if the Contractor within the period of three (3) days after such written notice is mailed, shall not proceed in accordance with same, then the City shall upon written certificate from the Engineer of the fact such delay, neglect, or default, and the Contractor's failure to comply with such notice, have full power and authority without prejudice to any of its other rights or remedies and without violating the contract, to terminate the employment of said Contractor and to take possession of the work out of the hands of said Contractor and to take possession of the premises and to appropriate the use of any or all materials, appliances, and equipment on the premises, and may enter into an agreement for the completion of said contract according to the terms and provisions thereof, or use such other methods as in its opinion, shall be deemed expedient and necessary for the completion of said contract in accordance with the plans and specifications, and within such time as in the judgment of the City, the public interests may require. In the event of any of the aforementioned circumstances arising at any time or times, the City shall have the right to withhold, without the payment of interest, any sum or sums of money due or to become due the Contractor until the interests of the City have been fully protected to the satisfaction of the Engineer. All costs and expenses incurred by the City together with the cost of completing the work under the contract, including the cost of additional managerial and administrative services, if any, shall be deducted from the monies due or which may become due said Contractor. In the case of expense so incurred by the City shall be less than the sum which would have been payable under the contract if it had been completed by said Contractor, then the said Contractor shall be entitled to receive the difference; and in case such expense shall exceed the sum which would have been payable under the contract, Contractor and/or Surety shall be liable therefor, and shall pay the amount of the differences to the City within ten (10) days after written notices mailed to the Contractor and/or Surety. The expense, loss, or damage, including the cost of additional managerial and administrative services, if any, incurred by the City through the Contractor's default shall be certified by the Engineer, and such certification shall be conclusive and recognized and accepted as the correct amount of the loss sustained by the City and all parties concerned.

MEASUREMENT OF QUANTITIES

All work completed under the contract shall be measured by the Engineer according to the United States Standards of Measures.

MATERIALS AND WORK NOT PAID FOR BY THE CONTRACTOR

When written notice is given to the Engineer before or within ten (10) days after the completion and conditional acceptance of the entire work under the contract by persons having done work or furnished materials for such contract that there is money due and unpaid for said work and materials, the Contractor shall furnish the Engineer with satisfactory evidence that said money has been fully paid for satisfactorily secured by him. In case such evidence is not furnished as aforesaid, such amounts as may be necessary to meet the claims of the persons or aforesaid may be retained from any monies due the Contractor under the contract until the liabilities aforesaid shall be fully discharged or such notices withdrawn. The City or the Engineer may also, with the written consent of the Contractor, use any money retained, due or become due under the contract, for the purpose of paying for both labor and materials for the work, for which claims have been filed in the office of the Engineer.

The Contractor shall furnish the City with a written list of all subcontractors, if any, to be used in connection with this contract. The City reserves the right to reject the use of any subcontractors for any reason whatsoever.

CLAIMS TO BE MADE PROMPTLY

Should the Contractor be of the opinion, at any time or at times, that he is entitled to any additional compensation whatsoever (over and above the compensation stipulated in these contract documents or for quantities and/or amounts over and above the quantities and/or amounts allowed or approved by the Engineer), the damages, losses, costs, and/or expenses alleged to have been sustained, suffered, or incurred by him in connection with the project herein contemplated, he shall, in each instance, within five (5) days after such alleged damages, losses, costs, and/or expenses shall have been sustained, suffered, or incurred, make a written claim therefor to the Engineer. On or before the fifteenth (15th) day of the calendar month succeeding that in which such damages, losses, costs, and/or expenses shall have been sustained, suffered, or incurred, the Contractor shall file with the Engineer a written, itemized statement of the detailed amounts of each such claim or damage, loss, cost, and/or expense and unless such claim for such additional compensation shall be held and taken to be absolutely invalidated, and he shall not be entitled to any compensation on the account of each such alleged damage, loss, cost, and/or expense.

The provisions of this section shall be held and taken to constitute a condition precedent to the right of the Contractor to recover; they shall also apply to all claims by the Contractor in any way relating to the complete project; and even though the claims and/or work involved may be regarded as "outside the contract."

It is understood and agreed, however, that nothing in this section contained shall be held or taken to enlarge in any way the rights of the Contractor or the obligations of the City under these contract documents.

EXTRA WORK A PART OF THE CONTRACT

No order for extra work nor the doing of any extra work, at any time or place, shall in any manner or to any extent relieve the Contractor from any of their obligations under the contract documents; all extra work orders being given and all extra work being done, under, and in accordance with the contract are to be considered a part of the same and subject to each and every one of the terms and requirements of the contract documents.

SCOPE OF PAYMENT

The Contractor shall receive and accept the compensation, as provided in the Bid or Proposal, in full payment for furnishing all materials, labor, tools, and equipment and for performing all work contemplated and embraced under the contract. Also for all loss of damages arising out of the nature of the work, or from the action of the element or from any unforeseen difficulties or obstructions, which may arise or be encountered during the prosecution of the work, until its final acceptance by the City, and for risks of every description connected with the prosecution of the work, until its final acceptance by the City, and for all risks of every description connected with the prosecution of the work, also for all expenses incurred by, or in consequence of the suspension or discontinuance of the prosecution of the work as herein specified, and for any actual or alleged infringement of patent, trade name, or copyright and for completing the work and the whole thereof, in an acceptable manner according to the plans and specifications. The payment of any current or final estimate, or of any retained percentage, shall in no way or in a degree, prejudice, or affect the obligations of the Contractor, at his own cost and expense, to renew or replace any defects and imperfections in the construction of the work or in the strength of the quality of materials used in or about the construction of the work under contract and its appurtenances, as well as all damages due or attributable to such defects, which defects,

contract, except such sums which have already been paid and except such sum or sums as may have been expended by the Owner under the provisions of the contract documents and less any other deductions the Owners may be otherwise entitled to make.

The last mentioned certificate issued by the Engineer shall be deemed and accepted by all of the parties hereto as evidencing the final completion and acceptance of the entire project, and the payment made by the Owner to the Contractor pursuant to the issuance of said certificate of final completion and acceptance shall be deemed to be accepted by all of the parties hereto as the final payment to be made by the Owner to the Contractor, all prior certificates or estimates upon which payments may have been made being partial estimates and subject to correction in said final payment.

LAST PAYMENT TO TERMINATE LIABILITY OF THE OWNER

The acceptance by the Contractor of the final payment shall operate as and be a release of the Owner and every agent thereof from all claims and liabilities to the Contractor for anything done or furnished or relating to the work, or for any act or neglect of the Owner or any persons relating to or affecting this work.

NO LIMITATION OF LIABILITY

It is understood and agreed that any and all duties, liabilities, and/or obligations imposed upon or assumed by the Contractor and the Surety, or either of them by or under the contract documents, shall be taken and construed to be cumulative, and that the mention of any specific duty, liability, or obligation imposed upon or assumed by the Contractor and/or Surety under the contract documents shall not be taken or construed as a limitation or restriction upon any or all of the other duties, liabilities and/or obligations imposed upon or assumed by the Contractor and/or Surety by or under the contract documents.

REMEDIES CUMULATIVE

All remedies provided in the contract documents shall be taken and construed to be cumulative; that is, in addition to any and all other remedies provided therein and to any remedies in law or equity which the City would have in any case.

LEGAL ADDRESS

The address given in the bid or proposal is hereby designated as the legal address of the Contractor. Such address may be changed at any time by notice in writing delivered to the Engineer. The delivering of such legal address or the depositing in any post office, in a postpaid, registered wrapper direct to the above-mentioned address of any notice, letter, other communication to the Contractor, shall be deemed to be a legal and sufficient service thereof upon the Contractor.

CONTRACTOR'S EXPENSE

All things required by the contract documents to be done, furnished, and/or installed shall be done, furnished and/or installed by the Contractor at his entire cost and expense, unless otherwise provided therein.

NIGHT, WEEKEND, AND CITY HOLIDAY WORK

No night work between the hours of 5:00 p.m. and 8:00 a.m., no work on Saturday, Sunday, and no work on any City Holiday shall be permitted except with written permission of the Engineer. If the Contractor decides to work on those above days, he shall reimburse the City for the salaries and wages of the City Construction Inspectors. Compensation shall include direct payroll cost and fringe benefits.

SECTION 2-1, Wilmington Code, Chapter 20, Article IV.

SECTION 20-44

Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- "City Work"** All building or construction work or projects of any kind or nature, including repair, alteration, and remodeling done on behalf of the City under any contract awarded by the City for building or constructing any building or structure, or the repair, alteration, and remodeling thereof or any other project subject to the determination by the Procurement and Records Division Manager and the State Department of Labor and Industrial Relations in accordance with the provisions of Sections 101 to 129 of Title 19 of the Delaware Code, involving the hourly wages for the respective occupational classifications within a given craft, trade, or industry for the City area.
- "Contractor"** Any employer who has been awarded any contract for the City work as defined herein.
- "Contracts"** Contracts for the performance of City work entered into by the City with contractors and all contracts entered into between such contractors and subcontractors involving or regarding such work.
- "Employee"** A workman or mechanic of the employer.
- "Employer"** Any person who is a party to a contract or subcontract for the performance of any City work as defined herein.
- "Occupational Classifications"** The specific categories of jobs within a given craft, trade, or an industry for which a separate hourly wage rate for the City area as is determined by the Procurement and Records Division Manager and the State Department of Labor and Industrial Relations in accordance with the provisions of Section 101-129 of Title 19 of the Delaware Code.
- "Prevailing Wages"** An aggregate of:
- 1) The hourly wages for the respective occupational classifications within a given craft, trade, or industry for the City area determined by the Procurement and Records Division Manager and the State Department of Labor and Industry Relations in accordance with the provisions of Sections 101-129 of Title 19 of the Delaware Code; provided, however, that during the period of any substantial work stoppage involving rates of wages in a given craft, trade, or industry, such wages for such craft, trade, or industry shall be those as last so determined by the Procurement and Records Division Manager prior to such work stoppage, and

SECTION 20-47

Violation of Article.

The violation of this article shall be considered a substantial breach of contractor's obligation under the contract; provided, however, that this article shall not be deemed to have been violated where it is contended that a particular craft, trade or industry is not the appropriate one and the wages applicable to the craft, trade or industry working under the contract have been paid the prevailing wages as determined for the craft, trade or industry contract. No contract for City work shall be awarded to any contractor or subcontractor who has violated any provision of this section until five (5) years have elapsed from the date of determination of such violation, and shall be fined no more than five thousand dollars (\$5,000.00) for each violation (Ordinance No. 73-077, Section 2).

PLANS, ETC., TO BE FOLLOWED

The approved plans attached to and made a part thereof will show the details and dimensions of the work contemplated, which shall be performed in strict accordance therewith and in accordance with the specifications. There shall be no deviation from the plans, specifications, etc., on account of the exigencies of construction, unless approved by the Engineer and authorized in writing.

INTERPRETATION OF PLANS, ETC.

On all plans, drawings, etc., the following dimensions shall govern in the case of discrepancy between the scales and figures. The Contractor shall take no advantage of any error or omission in the plans or of any discrepancy between the plans and specifications, and the Engineer shall make such corrections and interpretations as may be deemed necessary for the fulfillment of the intent of the specifications and of the plans as construed by him. In all cases of doubt as to the true meaning of the specifications, plans and/or drawings, the decision of the Engineer will be final and conclusive.

ALTERATION OF PLANS OR OF CHARACTER OF WORK

The Engineer reserves the right to make such alterations in the plans or in the character of the work as may be considered necessary or desirable from time to time to complete fully and perfectly the construction of the work, provided such alterations do not change materially the original plans and specifications of such alterations shall not be considered as a waiver of any condition of the contract nor to invalidate any of the provisions thereof. Should such alterations in the plans or in character of the work be productive of increased cost or result in decreased cost to the Contractor, a fair and equitable sum therefor to be agreed upon in writing by the Contractor and the Engineer, before such work is begun, shall be added to or deducted from the contract price, as the case may be. No allowance will be made for anticipated profits on the work omitted.

PLANS AND SPECIFICATIONS FURNISHED TO CONTRACTOR

The Contractor will be supplied by the Engineer with a reasonable number of copies of the plans and specifications and he shall have available on the work at all times during the prosecution of the work, one (1) copy of said plans and specifications.

TEST OF SAMPLES OF MATERIALS

All tests of materials will be made by the City in accordance with official approved methods as described or designated. The Contractor shall cooperate with and assist the Engineer in taking samples and packing them for shipment to a laboratory.

The term "delinquent taxes" as used herein applies only to uncollected taxes, license fees, and penalties owed by the Contractor or subcontractor, a subsidiary, or principal owner thereof; "principal owner" as used herein is one which owns a majority share or otherwise maintains a controlling interest in the Contractor or subcontractor. The City shall notify the Contractor in writing of its intention to make the aforesaid set off. If the Contractor and the City cannot agree as to either the amount or propriety of the set off, a formal hearing shall be held. The scope of said hearing shall be limited to the Contractor's good faith objections as to the validity or propriety of the tax and/or water sewer assessment or contemplated set off. If the dispute remains extant, the amount subsequently set off shall be deemed paid under protest.

DISADVANTAGED BUSINESS PROGRAM

In the performance of this contract, the contractor agrees to provide the information as described herein and to make its best efforts to include one or more types of disadvantaged businesses as subcontractors.

A Disadvantaged Business Enterprise means a business that is at least fifty-one percent (51%) owned and controlled by one or more socially disadvantaged individuals who, in fact, control the management and daily business operations of the business.

"Disadvantaged Individuals" are those who have been actual victims of discriminatory practices or individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business who are not so disadvantaged.

In determining the degree of diminished credit and capital opportunities, the City may consider, but shall not be limited to, reviewing the assets and net worth of disadvantaged individuals and disadvantaged businesses.

For purposes of determining the disadvantage in competing for City contracts, there shall be a presumption of economic disadvantage if an individual's net worth, exclusive of up to one hundred and fifty thousand dollars (\$150,000.00) of equity in his or her primary residence, is less than five hundred thousand dollars (\$500,000.00). The City may, in the administration of its programs, direct its assistance toward those economically disadvantaged individuals who are among the chronically unemployed and may identify demographic subgroups of disadvantaged individuals identified by race or national origin whenever current, verifiable local statistics confirm the existence of unemployment rates among such individuals that are more than fifty (50) percent above the prevailing overall unemployment rate statewide.

All contractors doing business with the City shall show good faith efforts to obtain minority and other disadvantaged subcontracting businesses' participation. Good faith efforts shall be evidenced by listing each disadvantaged business enterprise (DBEs) contacted, showing the name and address of each, the names of contact persons, telephone numbers, sources used to identify DBEs, methods used to make contact, dates firms were contacted, responses, dates responses were received, type of subcontract, reasons for rejection if the firm is not used, and estimated value of each subcontract, through completion of the City's Form DBE-1.

The federal set-aside program requirements for any applicable federally funded contract are fully applicable to the City of Wilmington, such that contractors will be subject to federal penalties of non-compliance if a contract or any subcontract awarded involves the federal set-aside program and the contractor fails to meet its requirements as to that program.

ADDITIONAL GOOD FAITH EFFORT (CHANGES TO Chapter 35 of the City Code)

Ordinance No. 09-057, effective December 1, 2009, requires the following DBE changes within the "Good Faith Efforts" in bidding regarding disadvantaged business enterprises (DBE's).

Sub Contractors Listing

Identify all subcontractors that the bidder plans to utilize as well as listing the amount of money that will be paid to each of the subcontractors as part of the contract

DBE Replacement

Contractors are further required to make good faith efforts to replace any disadvantaged business enterprise ("DBE") that is terminated or has otherwise failed to complete its work on a contract. In such situations, the general contractor shall be required to notify immediately the City's DBE Office and provide reasonable documentation regarding any DBE's inability or unwillingness to perform the contracted work. The City's DBE Office shall require the general contractor to obtain prior approval for the DBE that will be used as a substitute, and the general contractor must provide copies of new or amended subcontracts along with documentation of the good faith efforts made in acquiring the substitute DBE.

DBE Payment

General contractors shall pay all correct invoices for the completed work of any DBE subcontractor within 10 days of receipt by the prime contractor of payment by the City. Noncompliance with this section shall subject the general contractor to penalties as provided in Section 35-135(e).

The ordinance further provides administrative additional penalties for noncompliance in addition to the penalties already provided for in the Ordinance:

- (1) Suspension of contract;
- (2) Withholding of contract funds;
- (3) Termination of contract based on material breach;
- (4) Refusal to accept a future bid; and
- (5) Disqualification from eligibility for providing goods or services to the City for a period not to exceed 2 years.

EFFORTS TO OBTAIN DBE SUBCONTRACTORS DBE FORM 1 - DBE FORM 2 EXPLANATION

[NOTE: DBE FORM-2 MUST BE COMPLETED BY ALL BIDDERS REGARDLESS OF THE LEVEL OF PARTICIPATION OF DBEs IN THE BID.]

All contractors doing business with the City are required to show good faith efforts to obtain DBE subcontracting businesses' participation. The burden is on the bidder to evidence such good faith efforts by means of the information required on this page. Failure to complete this form and/or failure to make good faith efforts to obtain DBE participation are grounds for rejecting any bid. Further, bidders are expected to make such good faith efforts to obtain DBE participation in connection with each and every subcontract, if any. The City's goals for DBE participation are listed on Attachment 1 to this form. These goals are not set-aside requirements, but they are the overall goals which the City is endeavoring to achieve through the disadvantaged business program. Each person or firm who or which submits a bid for City contracts is expected to demonstrate good faith efforts by actively and aggressively seeking out DBE participation in the contract to the maximum extent, to meet the City's goals, given all relevant circumstances, and shall complete all forms and follow guidelines as required by the Minority Business Office. The following are examples of the kinds of efforts that may be taken but are not deemed to be exclusive or exhaustive and the City's Minority Business Office may consider other factors and types of efforts that may be relevant:

1. Efforts made to select part of the work to be performed by DBEs in order to increase the likelihood of achieving the City's goal for that type of contract. Selection of parts of the work should at least equal the City's goal for DBE participation in that type of contract.
2. Written notification, at least ten (10) days prior to the opening of a bid, soliciting individual DBEs interested in participation in the contract as a subcontractor and for specific items of work.
3. Efforts made to negotiate with DBEs for specific items of work as detailed below and whether initial contacts to solicit DBE participation were followed up to determine with certainty whether DBEs were interested. A description of information provided to DBEs regarding plans and specifications and estimated quantities for parts of the work to be performed. A statement of why additional agreements with DBEs were not reached. Documentation of each DBE contacted but rejected and the reasons for the rejection.
4. Documentation that DBEs are not available or not interested.
5. Advertisements in general circulation media, trade association publications, and DBE media of interest in utilizing DBEs and specific areas of interest.
6. Efforts to use effectively the services of organizations that provide assistance in recruitment and placement of DBEs.
7. Whether the bidder selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the bidder might otherwise perform these work items with its own forces.

To Be Submitted with Bid**FORM DBE-1**
(Rev. 10/09)**CITY OF WILMINGTON**
DISADVANTAGED BUSINESS ENTERPRISE ("D.B.E.") CONTRACT # _____
SUBCONTRACTOR LISTING***Failure to submit this completed form will be cause for rejection of your proposal***

Bidder acknowledges that he has read the D.B.E. goal provisions of the City for this fiscal year and that bidder will expend the dollar amount of the contract for D.B.E. subcontractors through the use of the following disadvantaged business enterprises, subject to the certification by the City, as subcontractors and that Bidder has made good faith efforts* as evidenced by its listing of disadvantaged businesses that were contacted as detailed herein and on the following pages. (Must be completely filled out)

D.B.E. Firm Name IRS Numbers	Mailing Address & Contact Number	Type of Service	Dollar Amount of Contract
Total Dollar Amount to be Expended for Disadvantaged Business Enterprises			
Total Amount of Contract			
Percentage of Contract used for D.B.E.			

Name of Authorized Official of Bidder _____ Title _____

Company _____

* Good faith efforts shall be evidenced by listing each and every disadvantaged business enterprise (DBEs) contacted, showing the name and address of each, the names of contact persons, telephone numbers, sources used to identify DBEs, methods used to make contact, dates firms were contacted, responses, dates responses were received, type of subcontract, reasons for rejection, and estimated value of subcontract.

To Be Submitted with Bid if DBE is not listed in City DBE Directory

CONTRACT # _____

FORM DBE-3

Failure to submit this completed form will be cause for rejection of your proposal (Rev. 10/09)

CITY OF WILMINGTON

DISADVANTAGED BUSINESS REGISTRATION VERIFICATION FORM

1.	NAME:		
2.	ADDRESS:		
3.	PHONE:	PRODUCT OR SERVICE LINE:	
4.	TYPE OF FIRM: <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Individual <input type="checkbox"/> Other _____		
5.	EMAIL:		
6.	DATE OF ORIGATION OF FIRM:		E-Mail:
7.	BUSINESS LICENSES HELD:	City:	State: Other:
8.	DISADVANTAGED OWNERSHIP OF FIRM:		
	NAME	OWNERSHIP % OF FIRM	DISADVANTAGED BUSINESS
a.			
b.			
c.			
d.			
e.			
f.			
9.	NON-DISADVANTAGED OWNERSHIP OF FIRM:		
	NAME	OWNERSHIP % OF FIRM	
a.			
b.			
c.			
d.			
e.			
f.			
8.	I hereby certify that the information above is true and complete to the best of my knowledge and belief, and that I have been duly authorized to make this certification on behalf of the firm.		

NAME (printed)

Signature

DATE

TITLE

FOR OFFICE USE ONLY

DATE RECEIVED:

DATE APPROVED:

INFORMATION VERIFIED:

To Be Submitted with Bid

FORM DBE-5
(Rev. 10/09)

CONTRACT # _____

Failure to submit this completed form will be cause for rejection of your proposal

CITY OF WILMINGTON

SUBCONTRACTOR LISTING

(Do not include DBE Firms to be utilized)

Subcontractor Name IRS Numbers	Mailing Address Contact Number or Email	Type of Service	Dollar Amount of Contract
Total Dollar Amount to Non Disadvantaged Business Enterprises			
Total Amount of Contract			

Bidder acknowledges that he has identified all sub contractors that will be utilized as well as listing the amount of money that will be paid to each of the subcontractors as part of the contract. (Use additional pages if necessary)

Name of Authorized Official of Bidder _____

Title _____

Company _____ **Date** _____

<u>ITEM NO.</u>	<u>APPROXIMATE QUANTITY AND DESCRIPTION</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
Item 6B	<u>CRUSHER RUN (CR-1):</u> 500 Tons at <u>Fifty</u> Dollars and <u>No</u> Cents per ton.	<u>(\$ 50.00)</u>	<u>\$ 25,000.00</u>
Item 6C	<u>106A STONE:</u> 200 Tons at <u>Forty-Five</u> Dollars and <u>No</u> Cents per ton.	<u>(\$ 45.00)</u>	<u>\$ 9,000.00</u>
Item 6D	<u>TOPSOIL</u> 3 Tons at <u>Fifty</u> Dollars and <u>No</u> Cents per lineal feet.	<u>(\$ 50.00)</u>	<u>\$ 150.00</u>
Item 9	<u>P.C.C. BASE COURSE:</u> #9A-Class A Portland Cement Concrete 30 Cubic Yards at <u>Three-Hundred</u> Dollars and <u>No</u> Cents per cubic yard.	<u>(\$ 300.00)</u>	<u>\$ 9,000.00</u>
	#9B-Class B Portland Cement Concrete 560 Cubic Yards at <u>one-hundred</u> Dollars and <u>No</u> Cents per cubic yard.	<u>(\$ 190.00)</u>	<u>\$ 106,400.00</u>
Item 10	<u>HOT MIX C</u> 10A-Hot Mix 300 Tons at <u>One-hundred</u> Dollars and <u>No</u> Cents per ton.	<u>(\$ 140.00)</u>	<u>\$ 42,000.00</u>
	10B-Cold Patch 50 Tons at <u>One-Hundred</u> Dollars and <u>No</u> Cents per ton.	<u>(\$ 125.00)</u>	<u>\$ 6,250.00</u>
Item 15	<u>SEWER CONSTRUCTION:</u> #15A-6-inch P.V.C. Pipe 600 Lineal Feet at <u>Fifty</u> Dollars and <u>No</u> Cents per lineal foot.	<u>(\$ 50.00)</u>	<u>\$ 30,000.00</u>

<u>ITEM NO.</u>	<u>APPROXIMATE QUANTITY AND DESCRIPTION</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
	#16C-Install, Repair and Restore (paring catch basin walls) Catch Basin Type "A" or "I"		
	160 Vertical Feet at Three-hundred ^{Fifty} Dollars and No _____ Cents per vertical foot.	(\$ 350.00)	\$ 56,000.00
	#16D-Install, repair, and restore (paring catch basin walls) double Catch Basin Type "A" or "I"		
	60 Vertical Feet at Three-hundred ^{seventy-five} Dollars and no _____ Cents per vertical foot.	(\$ 375.00)	\$ 22,500.00
Item 19	<u>Curb 19A-PORTLAND CEMENT CURB</u>		
	120 Lineal Feet at <u>Fifteen</u> Dollars and no _____ Cents per lineal foot.	(\$ 15.00)	\$ 1,800.00
	<u>19B-GRANITE CURB</u>		
	20 Lineal Feet at <u>Fifteen</u> Dollars and No _____ Cents per lineal foot.	(\$ 15.00)	\$ 300.00
Item 20	<u>PORTLAND CEMENT CONCRETE SIDEWALK:</u>		
	4-inch Thick Sidewalk 800 Square Feet at <u>Seven</u> Dollars and No _____ Cents per square foot.	(\$ 7.00)	\$ 5,600.00
Item 35	<u>CUT-INS (CORE-DRILLED):</u>		
	#35A*-100 Cut-Ins at <u>One-Hundred</u> Dollars and NO _____ Cents each.	(\$ 100.00)	\$ 10,000.00
	#35C-Mechanical Saw Cut 2,100 Lineal Feet at <u>Four</u> Dollars and no _____ Cents per lineal foot.	(\$ 4.00)	\$ 8,400.00
	Year 1 - Subtotal of All Items Listed for Section I		\$ 534,400.00

* The "cut-in" item (#35A) appearing on the Proposal Form, includes connecting to the main line and manholes where specified. In addition, all cut-ins must be core-drilled.

Section III- The items below will be used as a method of payment for work not covered by the items in Section I and Section II for force account work. This section will be estimated for a time period of 30 days.

Sewer Jet/ Vacuum Truck 4 hour/day @ \$ 250.00 = \$ 1,000.00

Subtotal of all Items above in Section III times 30 days = \$ 30,000.00

Grand Total:

Subtotal Section I + Subtotal Section II + Subtotal Section III =
\$ 988,600.00

LIST SUBCONTRACTORS BELOW:

Sam's Construction (Concrete Sidewalks)

Maddrey Trucking (Hired Haulers)

Rosey's Tank Cleaning

FIRM: Brandywine Construction Co., Inc.

A Corporation

CORPORATION/PARTNERSHIP/INDIVIDUAL

PER:

Kathleen C Thomas

Kathleen C. Thomas

NAME (Typed or Printed)

TITLE:

President

ADDRESS:

101 Pigeon Point Road

New Castle, DE 19720

ZIP

FED. ID NUMBER:

510080296

PHONE NUMBER:

302-571-9773

FAX NUMBER:

302-571-9775

To Be Submitted with Bid

Failure to submit this completed form will be cause for rejection of your proposal

DBE Firm Name/Address	Contact Person(s) Email or Phone Number	Dates Contacted Initially and in Follow Up Methods Used	Type of Subcontractor, plus Estimated Value	Reason for Rejection if Firm Not Used (If Bid "Too High" also indicate value)
1. All work except hired handlers, concrete walks, curbs, and granite curbs to be performed with Brandywine Construction's forces. When these services are required, we will hire City DBE's for this work.			\$	
2.			\$	
3.			\$	

Were advertisements placed in general circulation media, trade association publications, and DBE media interested in DBE participation? If so, state details of the advertisement. If not, state why not.

The only item BCCI is not performing in house or subcontracting to a City DBE is vac-truck rental. We consulted the City's DBE portal and after review of it, could not locate any City certified DBE's that perform this service.

What efforts were made to use the services of organizations that provide assistance in recruitment and placement of DBEs?

See item above

The following are examples of actions that may not be used as justification by the contractor or bidder for failure to meet DBE participation goals:

1. Failure to contract with a DBE solely because the DBE was unable to provide performance and/or payment bonds.
2. Equipment idled by contract with DBE.
3. Rejection of a DBE because of its union or non-union status.

If more DBE firms have been contacted, please list with supplemental form(s) on additional pages.

The General Contractor is required to submit this Compliance Report to the Disadvantaged Business Development Officer, City/County Building, 3rd Floor, 800 French Street, Wilmington, Delaware 19801, when the contract is entered into by the general contractor and the subcontractor, when 50% and when 100% of each DBE subcontractor's portion of a construction project has been completed.

DISADVANTAGED BUSINESS ENTERPRISE
CONTRACT PARTICIPATION REPORT

1. Contract No. 13036PW Amount of Contract \$ 988,600.00
2. Name of General Contractor: Brandywine Construction Co., Inc.
3. Address: 101 Pigeon Point Road New Castle, DE 19720
3. E-Mail Address kthomas@bccico.com

3. The above-named contractor intends to fulfill its commitment to expend \$ 72,700.00, (7 %), of its contract with Disadvantaged Business Enterprises ("DBEs"). The following year-to-date expenditure(s) has been made with a DBE Subcontractor(s):

Name/Address of DBE Subcontractor	Nature of Participation	Dollar Value/Percent of Participation	Dollar Amount Expended to Date
1. Sam's Construction	Concrete Walks, Curbs, Granite Curbs	7,700.00	
2. Maddrey Trucking	Hired Haulers	65,000.00	
3.			

CONTRACT COMPLETION DATE: 6/30/13

Brandywine Const. Co., inc.
General Contractor

Kathleen C. Thomas
Name of Authorized Officer

5/22/12
Date

DBE Subcontractor

Kathleen C Thomas
Signature of Authorized Officer

Date

Office Use Only
(Prime)

Payment Received: _____
Amount: _____
Date: _____
Payment Received: _____
Amount: _____
Date: _____

City of Wilmington Contract Compliance Officer's Name

City of Wilmington Contract Compliance Officer's Signature/DATE

KASH SRINIVASAN
COMMISSIONER

City of Wilmington
Delaware

LOUIS L. REDDING CITY/COUNTY BUILDING
800 FRENCH STREET-6TH FLOOR
WILMINGTON, DELAWARE
19801-3537



DEPARTMENT OF PUBLIC WORKS
Water Division

MEMORANDUM

TO: Gary Fullman
Manager of Procurement & Records

FROM: Michelle K. Devillers
Civil Engineer II

RE: Contract No. ^{13036PW} ~~PW13011~~ - Sewer Construction


DATE: June 1, 2012

The bids received for the above-referenced contract are as follows:


<u>Firm</u>	<u>Amount</u>
Brandywine Construction Co., Inc.	\$988,600.00
Joseph T. Hardy & Son, Inc.	\$1,029,680.00
Choptank Excavation LLC	\$1,142,238.00
Guardian Construction Co., Inc.	\$1,453,320.00

Based upon review of the bids, it is recommended that we award the contract to the apparent low-bidder Brandywine Construction Co., Inc. for \$988,600.00.

APPROVED


Kash Srinivasan
Commissioner of Public Works

APPROVED


Lorraine Powell-Watson
DBE Compliance Officer

Cc: Philip Ceresini, Finance- Procurement & Records
File

Delaware

PAGE 1

The First State

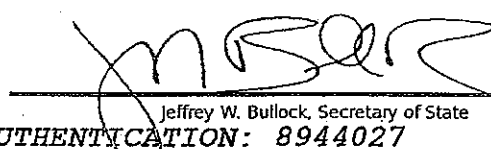
I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "BRANDYWINE CONSTRUCTION CO., INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE SECOND DAY OF AUGUST, A.D. 2011.



0510018 8300

110881772

You may verify this certificate online
at corp.delaware.gov/authver.shtml


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 8944027

DATE: 08-02-11

----- CONTRACT -----

THIS AGREEMENT, made the 24th day of June in the year Two Thousand Twelve by and between the City of Wilmington, a municipal corporation of the State of Delaware, acting through the agency of the Department of Finance, Division of Procurement and Records, party of the first part (hereinafter designated the City), and Brandywine Construction Company, Inc (BCCI), party of the second part (hereinafter designated the Contractors)

WITNESSETH, that the Contractor, in consideration of agreements herein made by the Owner, agrees with the Owner as follows:

Article 1. The Contractor shall and will furnish and deliver per specifications, on contract 13036PW "Sewer Construction" for the Department of Public Works in accordance with request for Bids by the Department of Finance, Division of Procurement and Records identified as Contract No. 13036PW and by the signatures of the parties hereto, are, together with the said Advertisement for Bids, Instructions to Bidders, Forms of Proposal, and/or other documents pertinent thereto, hereby acknowledge and incorporated into these presents and are to be taken as a part of this Contract.

Article 2. It is understood and agreed by and between the parties hereto that the amount of this Contract is in the amount of Nine Hundred Eighty Eight Thousand Six Hundred --- 00/100 (\$988,600.00) as per Proposal dated 5/22/12 submitted to the Department of Finance, Division of Procurement and Records.

Article 3. In the performance of this Contract, the Contractor shall not discriminate or permit discrimination against any person because of his race, color, religion or his national origin.

Article 4. This Agreement shall bind the heirs, executors, administrators, successors and assigns to the respective parties hereto.